

Tony M. Williams,)	
)	C/A No. 0:20-cv-1202-MBS
Plaintiff,)	
)	
v.)	
)	ORDER
Commissioner of Social Security Administration,)	
)	
Defendant.)	
)	

On March 27, 2020, Plaintiff Tony M. Williams filed a complaint pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3) for judicial review of Defendant Commissioner of Social Security Administration's final decision regarding Plaintiff's entitlement to disability benefits. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for a Report and Recommendation ("Report"). Defendant filed an answer to the complaint on August 19, 2020. On September 11, 2020, counsel for Plaintiff moved to withdraw the complaint, stating that she has been unable to contact Plaintiff and therefore cannot continue in her representation of him. ECF No. 9. Defendant did not file a response to the motion to withdraw complaint and, on October 15, 2020, the Magistrate Judge issued a Report recommending that the court grant the motion and dismiss the action without prejudice. ECF No. 11. Pursuant to *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005), the Magistrate Judge advised the parties of their right to file an objection to the Report. ECF No. 11 at 2. On October 21, 2020, Defendant filed a notice representing it does not intend to object to the Report. ECF No. 12. This matter is now before the court for review of the Magistrate Judge's Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court reviews de novo only those portions of a magistrate judge's report and recommendation to which specific objections are filed and reviews those portions which are not objected to—including those portions to which only “general and conclusory” objections have been made—for clear error. *Diamond*, 416 F. 3d at 315; *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Opriano v. Johnson*, 687 F.2d 44, 77 (4th Cir. 1982). The court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

To date no party has filed an objection to the Report. The court has nonetheless reviewed the record and finds insufficient basis on which to dismiss this action outright. In the motion to withdraw complaint, counsel states only that she has been “unable to contact the plaintiff,” and that because she is “unable to telephone Mr. Williams and confer with him,” she moves to “withdraw this case.” ECF No. 9. Counsel does not provide any detail as to the efforts she has undertaken to contact her client, such as what mode of communication she attempted and on what occasion. Counsel shall file a supplemental brief providing this information. Counsel shall also address in her supplemental brief why she asks the court to dismiss this action rather than permit her to withdraw her appearance. Finally, counsel shall provide in the supplemental brief Plaintiff's last known mailing address.

For the reasons stated herein, the court declines to adopt the Report. Counsel shall file the supplemental brief as described herein within seven (7) days of the date this Order is entered.

IT IS SO ORDERED.

Dated: October 30, 2020
Columbia, South Carolina

/s/Margaret B. Seymour
Margaret B. Seymour
Senior United States District Judge